In the High Court of Uttaranchal at Nainital.

Criminal Revision No. 505/2001
(Old No. 18/1994)

Harish Chandra Saini……..……..Revisionist.

Vs.

Smt. Munni Devi and another……..Respondents.

Hon'ble Irshad Hussain, J.

None appear for the revisionist and respondent no.1. Heard Sri G.S.Sandhu learned A.G.A. and perused the record of the revision.

2- This revision under section 397/401 of the Code of Criminal Procedure (for short 'Code') has been preferred against the judgment and order dated 20-10-1993 passed by III Additional Sessions Judge, Nainital in criminal revision no. 49 of 1992 setting aside the judgment and order dated 13.2.1992 passed by Judicial Magistrate, Kashipur, Nainital in criminal case no. 144 of 1990 dismissing the petition of the wife respondent no.1. The learned Sessions Judge awarded Rs. 250/- per month as maintenance allowance to the wife-respondent no.1 and Rs. 150/- per month to her two minor children.

3- Respondent no.1 had preferred a petition under section 125 of the 'Code' against her husband-revisionist for grant of maintenance. The same was dismissed on 13.2.1992 by the J.M. Kashipur. Aggrieved by the judgment and order a revision was preferred by the wife-respondent no.1 before the Sessions Judge which was decided per judgment and order 20-10-1993 which is under challenge in this revision preferred by the husband. By the said judgment the III Additional Sessions Judge, Nainital allowed the application of the wife-respondent no.1 under section 125 of the 'Code' and awarded Rs. 250/- as maintenance to the wife and Rs. 150/- per month as maintenance to the children. Perusal of the judgment indicate that the wife was turned out of the house with the children and was not provided with maintenance. She was unable to maintain herself and therefore on the basis of the evidence of the wife the maintenance petition was found maintainable and there being sufficient cause for residing separately the maintenance was awarded.

4- Perusal of the judgment indicate no perversity in the appreciation of the material and evidence and therefore the revision petition lack merit and is liable to be dismissed.

5- The revision is dismissed. Stay order dated 4.1.1994 is vacated and the revisionist-husband shall pay the maintenance allowance and arrears per judgment and order dated 20-10-1993 passed by the III Additional Sessions judge, Nainital.

(Irshad Hussain, J.)

Dated: 19-5-2004

ISB